Mika PARTAIN et al., Application No. 09/760,864   Dkt. No. 2271/63926
Page 10

REMARKS

The application has been reviewed in light of the final Office Action dated January 20, 2010. Claims 45-64 were pending, with claims 1-44 having previously been canceled, without prejudice or disclaimer. By this Amendment, claim 46 has been canceled without prejudice or disclaimer, independent claims 45, 52 and 58 have been amended to include the features formerly recited in now-canceled claim 46, claims 47 and 50 have been amended to depend from claim 45, and claims 45, 52, 53 and 58 have been amended to clarify the claimed subject matter. Claims 45 and 47-64 remain pending upon entry of this amendment, with claims 45, 52 and 58 being in independent form.

Claims 45-60 and 62-63 were rejected under 35 U.S.C. § 103(a) as purportedly unpatentable over Mesaros (US 7,124,099) in view of Rubin (US 6,078,897) and further in view of Postelnik (US 2006/0218054 A1). Claim 61 was rejected under 35 U.S.C. § 103(a) as purportedly unpatentable over Mesaros in view of Rubin and Postelnik and further in view of Unold et al. (US 2002/0055880 A1)

Applicant respectfully submits that the present application is allowable over the cited art, for at least the reason that the cited art fails to disclose or suggest the aspects of the present application of: (a) *when it is determined based on customer side information, including an identify of a client, and an initial specified quantity that an initial order is to be treated as a retail-customer-to-business transaction, and if said specified quantity of said initial order is in a range equal to or higher than a first predetermined quantity but lower than a third predetermined quantity, changing the display information at the customer side to reflect the retail-customer-to-business transaction and a retail-customer-to-business promotion, and (b) when it is determined based on said customer side information and said initial specified quantity*

Mika PARTAIN et al., Application No. 09/760,864   Dkt. No. 2271/63926
Page 11

that said initial order is to be treated as a business-to-business transaction, **and** *if said specified quantity is equal to or greater than said third predetermined quantity,* changing the display information at the customer side to reflect the business-to-business transaction and a business-to-business promotion. Such aspects are discussed, for example, at page 5, lines 16-20, page 7, lines 23-30, and page 9, lines 18-24 of the present application.

Mesaros and Rubin, as previously discussed in the record, and as acknowledged in the Office Action on page 4, do not disclose or suggest making any determination based on customer side information and/or an initial specified quantity whether an initial order is to be treated as a retail-customer-to-business transaction or as a business-to-business transaction.

Mesaros simply proposes that if the total number of products ordered is in a first range, then the price of each of the products will be a first value, and if the total number of products ordered is increased so as to be in a second range higher than a first range, then the price of each of the products will be decreased so as to be a second value lower than the first value.

Similarly, Rubin proposes that orders with a volume of, for example, at least 50 might received a 10% discount, and orders with a volume of at least 100 might received a 15% discount (Rubin, Col. 1, lines 48-53). The apparatus in Rubin accepts a proposed order and identifies additional orders than can be combined with the proposed order to obtain the higher volume discount (than would be obtained by submitting the proposed order itself).

Accordingly, if the total amount of ordered products in Mesaros or Rubin is within a specific range, the systems in Mesaros and Rubin will **always** apply the predetermined valuation/discount price corresponding to that specific range.

In contrast, the method and system of the present application considers not only whether a specified quantity of an initial order is in a specified range, but *also determines whether an*

initial order is to be treated as a retail-customer-to-business transaction or business-to-business

transaction, based in part on customer side information (including an the identity of a client).

Only if the value is in a specified range *and* it is also determined that the initial order is to be

treated as a retail-customer-to-business transaction, will the retail-customer-to-business

promotion be applicable. Similarly, only if the value is in another specified range *and* it is also

determined that the initial order is to be treated as a business-to-business transaction, will the

business-to-business promotion be applicable.

Mesaros and Rubin simply do not disclose or suggest the above-mentioned aspects of the

present application.

Postelnik, as understood by applicant, proposes a system wherein a customer 102 submits

an 'order request' to a client 105 which submits the order request to an order request servicing

system 110. The order request servicing system 110 analyzes the order request, and transmits the

order request to at least one order request management system 120 in order to fulfill the order

request. Postelnik defines an 'order request' as being one of many possible requests, including an

actual order (for goods or services), a request to view information, a request to return an item, a

request to cancel a previous order, and so forth. (Postelnik, paragraphs [0042]-[0043]).

It is contended in the Office Action on page 4 that Postelnik teaches that it is known to

"determine the type of initial order, and treating the initial order based on the determination."

However, Postelnik does NOT determine whether any of these 'order requests' are to be

treated as a retail-customer-to-business transaction or as a business-to-business transaction.

As previously discussed in the record, any determination in Postelnik is limited to

determining whether the type of the 'order request' is: an actual order (for goods or services), a

request to view information, a request to return an item, a request to cancel a previous order,

Mika PARTAIN et al., Application No. 09/760,864   Dkt. No. 2271/63926
Page 13

etc... as described above. Applicant simply fails to see how one skilled in the art would view one

of these types of 'order requests' - as determined by the system in Postelnik - as corresponding

to a retail-customer-to-business transaction, and view a second one of these types of 'order

requests' as corresponding to a business-to-business transaction.

Postelnik, like Mesaros and Rubin, does NOT disclose or suggest making any

determination, based on customer side information and/or an initial specified quantity, whether

an initial order is to be treated as a retail-customer-to-business transaction or as a business-to-

business transaction.

Furthermore, after Postelnik determines the type of the "order request," the system will

just fulfill that request (i.e. submit the actual order for goods or services, submit a request to view

information, submit a request to return an item, submit a request to cancel a previous order,

etc..). Postelnik does not discuss applying a retail-custom-to-business promotion to a first one of

these types of 'order requests', and a business-to-business promotion to a second one of these

types of 'order requests'.

Accordingly, Postelnik does not provide any teaching to modify Mesaros or Rubin in

order to produce the above-mentioned aspects of the present application, and applicant

respectfully submits that, contrary to the contention in the Office Action, any combination of the

cited references would *not* perform the transactions in the same manner.

That is, if the total amount of ordered products in Mesaros or Rubin is within a specific

range, the systems in Mesaros and Rubin will always apply the particular valuation/discount

price corresponding to that specific range, as described above. One skilled in the art simply

would not have been taught to modify these aspects of Mesaros and Rubin, to produce the

claimed subject matter of the present application, based on the aspect of Postelnik of determining

Mika PARTAIN et al., Application No. 09/760,864   Dkt. No. 2271/63926
Page 14

whether an 'order request' is an actual order, a request for information, a request to return an item, and so forth.

Applicant respectfully submits that the cited art, even when considered along with common sense and common knowledge to one skilled in the art, simply does not teach or suggest the aforementioned aspects of the present application.

Accordingly, applicant respectfully submits that independent claims 45, 52 and 58 and the claims depending therefrom, are allowable over the cited art.

In view of the remarks hereinabove, applicant submits that the application is now in condition for allowance. Applicant earnestly solicits the allowance of the application.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition. The Patent Office is hereby authorized to charge any required fees, and to credit any overpayment, to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,
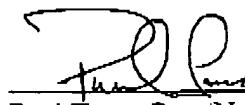
Paul Teng, Reg. No. 40,837
Attorney for Applicant
Cooper & Dunham LLP
Tel.: (212) 278-0400

RJM